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**Report of the Head of Scrutiny and Member Development**

**Scrutiny Board (Children's Services)**

**Date: 8 February 2007**

**Subject: The Implications of Trust Schools for the Local Authority – Inquiry Session One**

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**Electoral Wards Affected:**

**Specific Implications For:**

Ethnic minorities

Women

Disabled people

Narrowing the Gap

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**1.0 Introduction**

- 1.1 At the board's December meeting, members agreed to carry out an inquiry into the implications for Leeds City Council of the new legislation relating to Trust schools.
- 1.2 Draft terms of reference were considered at the meeting on 11 January 2007 and subsequently amended to reflect members' comments. A copy of the agreed terms of reference for the inquiry is attached as Appendix 1.
- 1.3 The inquiry is scheduled to take place over two sessions. The first session, to be held at this meeting, will be in two parts.
- 1.4 Firstly, the focus will be on providing general background about Trust School legislation, the status of Trust Schools and the role of the Local Authority in the Trust School process. Attached at Appendix 2 is a report prepared by Education Leeds, which gives information about the legislation and what Trust Schools will mean in practice. Secondly, members will receive the initial views of Trade Unions on the implications of Trust Schools for employees.
- 1.5 The Deputy Chief Executive of Education Leeds will be at the meeting to present the background report and respond to Members' questions and comments. External witnesses attending the session will be representing the NASUWT, NUT and Unison.

**2.0 Recommendation**

- 2.1 The board is requested to consider the issues raised by the first session of this inquiry.



## Scrutiny Board (Children's Services) Inquiry

### The Implications of Trust Schools for the Local Authority

#### Terms of reference

#### 1.0 Introduction

- 1.1 The Education and Inspections Bill, which is expected to come into force in the summer of 2007, will enable schools to become Trust schools.
- 1.2 According to the DfES:  
*"Trusts offer schools greater opportunity to secure the support of partners to strengthen their leadership and to develop their own ethos. In doing so, they will build diversity in the school system."*
- 1.3 In September 2006 the government announced 28 pathfinder projects to develop and refine ideas about how Trust arrangements could work for individual schools. A number of different models are envisaged.
- 1.4 Garforth Community College in Leeds, in partnership with Trinity and All Saints Higher Education College, is one of the national pathfinders.
- 1.5 At this stage, it is too early to know how many other schools may wish to explore Trust status in the short to medium term. Many rumours are circulating already. Whatever the situation, the Council will still be seeking to provide locally integrated services to children and young people, and needs to understand the implications of Trust status for this obligation.
- 1.6 At this early stage in the development of the Trusts schools concept, the Scrutiny Board (Children's Services) felt it would be timely to look at the implications of Trust schools for Leeds as a Children's Services Authority, to ensure that we can be proactive in responding to the opportunities and any concerns associated with this potentially hugely significant change.
- 1.7 The board hopes that this inquiry will assist the Council in preparing for the impact of the introduction of Trust Schools in the summer of 2007.

#### 2.0 Scope of the inquiry

- 2.1 The purpose of the inquiry is to make an assessment of, and where appropriate make recommendations on, the following areas:
- The developing arrangements for Trust Schools
  - The potential impact in Leeds
  - Ways in which Trust Schools can help deliver the universal and targeted elements of children's services provision
  - The long term implications of the establishment of Trust Schools

### **3.0 Comments of the relevant director and executive member**

3.1 In line with scrutiny board procedure rule 11.4 the views of the relevant director and executive member have been sought and have been incorporated where appropriate into these terms of reference. Full details are available on request from the scrutiny support unit.

### **4.0 Timetable for the inquiry**

4.1 It is envisaged that the inquiry will take place over two sessions. The inquiry will conclude with the publication of a formal report setting out the board's conclusions and recommendations.

4.2 The length of the inquiry is subject to change in the light of emerging evidence.

### **5.0 Submission of evidence**

5.1 The organisation of evidence between the two sessions will be partly dependent on the availability of external witnesses.

#### **5.2 Session One – 8<sup>th</sup> February 2007**

To consider general background information on:

- The government's Trust Schools proposals, including information on
  - Aspects relating to governance, including any new requirements or responsibilities for Governors of Trust Schools
  - Estates and assets
  - PFI schools
  - School admissions and the Admissions Forum
- Work being undertaken by Education Leeds in response to the proposals
- Any intelligence on the number of schools in Leeds that may be actively considering Trust status
- The initial views of trade unions on the implications of Trust Schools for employees

#### **5.3 Session One or Two (dependent on witness availability)**

To consider information on

- The Schools Commissioner's views on developments in Leeds
- The Garforth Community College/Trinity and All Saints College pathfinder project
- The David Young Academy as an example of alternative provision
- The views of Children Leeds on the impact of trust schools for the children's services authority and partnership working
- Any relevant experiences of working with Grant-maintained Schools from other LEAs

#### **5.4 Session Two – 8<sup>th</sup> March 2007**

To consider the board's emerging conclusions and recommendations

### **6.0 Witnesses**

6.1 The following witnesses have been identified as possible contributors to the Inquiry:

- The Schools Commissioner
- Education Leeds
- Headteacher and Chair of Governors of Garforth Community College
- Trinity and All Saints College
- Director of Children's Services
- Principal of David Young Academy
- Joint Consultative Committee representative
- A school currently considering Trust School status





TRUST SCHOOLS –  
A BRIEFING PAPER FOR SCRUTINY BOARD

# Education Leeds

## TRUST SCHOOLS

### Background

Legislatively, any school will be able to opt to become a Trust School once the relevant parts of the Education and Inspections Act 2006 come into effect in early summer 2007.

Proposals for Trust schools were introduced initially in the October 2005 White Paper [Higher Standards, Better Schools for All](#). The proposals form part of the Government's choice and diversity agenda. The Government has stated that Trust arrangements are intended to open up new and different ways for schools to work in the future. Schools (or groups of schools) that choose to take up the new arrangements will be backed by a charitable trust.

The White Paper also states that schools can work together in order to share best practice, pool resources and offer a wider range of opportunities to both children and staff. Trust schools, federations and other partnership arrangements provide the basis for this type of collaboration. The majority of schools involved in the pathfinder will be expected to look at how Trusts could support collaboration. The Government has stated that Trust schools are about drawing on the expertise and energy of partners to strengthen governance and support their strategic leadership

Acquiring a shared Trust can put existing collaboration between a group of schools on a more formal and sustainable footing. Unlike a hard federation, though, each school would retain its own governing body. However, where schools want to acquire a shared Trust which builds on an existing hard federation they can continue to have shared governing body arrangements..

### What is a Trust School?

- A Trust school remains a local authority maintained school that is funded on the same basis as other local authority maintained schools, and funding will be delegated to the governing body, not the Trust. There will be no additional funding from the local authority for a Trust school, and there is no expectation that the Trust will provide the school with additional funding. They could, however, bring in additional *resources* in terms of professional expertise, knowledge and vocational opportunities.
- The local authority has a key opportunity to become a partner in the Trust and engage strategically with a number of individual partners in order to support development through the establishment of a charitable foundation.
- Trust schools may not be uniform in nature. The members of the Trust might include education charities, further or higher education institutions, business foundations or community groups, for example. A Trust might work with a single school, a group of local schools or a network of schools.
- A Trust school is legally a foundation school supported by a charitable foundation that appoints some of its governors. The law has previously allowed for foundation schools to be formed, and to acquire a foundation with almost no process surrounding it (like consulting parents, allowing others to comment etc) or any safeguards on what a Trust can and cannot do. The new Education and Inspections Act puts in place some safeguards around forming and acquiring a Trust.

### What does it mean in practice?

- A Trust school governing body is the employer of the staff much like in an aided school, but must comply with the national School Teachers' Pay and Conditions Document.

- The governing body will set the school's own admission arrangements, but they will have to act in accordance with the School Admissions Code and will not be allowed to introduce selection by ability. The Government has stated that Trust schools will be expected to play their full part in taking hard to place pupils, having fair admissions and working with other schools.
- The school will manage its own land and assets. The Trust will hold the land and assets of the school on trust for the duration of its relationship with the school. This could be an issue for existing PFI schools or schools with academy status (see below).
- The school is supported by the Trust through the appointment of governors to the school's governing body. The governing body of a Trust school, and not the Trust itself, will remain responsible for all aspects of the conduct of the school. The Trust and the governing body remain separate entities. But in the situation where an existing governing body decides that the Trust may appoint the majority of the governors it would effectively give the Trust control over all decisions which fall to the governing body, and allow it to take strategic decisions about the direction of the school.

#### What is the process?

- There is potential for local authorities to strategically influence the development of trust schools in their area.
- The decision to move to trust status is made by the school's existing governing body. It also determines who the members of that Trust should be, and whether the Trust should appoint the minority or majority of the governing body. If the Trust appoints the majority of governors a Parents' Council must be formed.
- Parents and other local stakeholders must be consulted before any decision is made. The governing body must then publish formal proposals if it wishes to go ahead.
- Governing bodies will need to consult their local authority before they acquire a Trust. If the local authority considers that parents' views have not been taken into account, or has concerns about the Trust's impact on standards, it can refer the proposal to the Schools Adjudicator.

A process flowchart is attached as Appendix 1 for ease of reference.

#### Other Points

- No school will be forced to have a Trust, but acquiring a Trust must be one option, as is moving to academy status or closure, for the local authority to consider when a school is failing.
- Trust schools will still have to abide by the normal parameters of the National Curriculum and will be inspected by Ofsted like all other schools.
- All Trust schools will have to promote good local community and race relations, and be subject to the requirements of the Race Relations Act and the Disability Discrimination Act.



- The governing body will be required to consult the local authority, parents and other stakeholders and to take their views into account before publishing proposals. If they fail to consult adequately or do not take due account of any consultation responses – or indeed if there are concerns about the impact of the Trust on standards – the local authority will be able to refer proposals for Trusts to the Schools Adjudicator for decision. The local authority may refer proposals either as a result of its own concerns or as a result of local stakeholders raising their concerns with the authority.

### **The relationship between trust schools and PFI**

The governing body continues to have all the contractual benefits and obligations of the school. These will include, where the school is part of a PFI contract, the individual agreement that the governing body must have signed with the authority, which will include its obligation to contribute to the unitary charge for the PFI contract and the services it will receive from the contract. Acquiring a Trust is not an opportunity for the school to withdraw from any contracts unless a variation in the school's status was specifically written into the terms of a contract as an eligible reason for withdrawal.

### **The relationship between Trust schools and BSF**

As local authority maintained schools, Trust schools will remain part of the BSF programme - which focuses on the needs of schools and their pupils rather than on type of school - and must be fully included in their authority's BSF educational vision and investment project.

### **How do Trust schools differ from Academies?**

There are two key differences:

- Academies are publicly funded independent schools (not local authority schools), whilst trust schools remain as LA maintained schools.;
- Academies take revenue funding out of the local authority system.

The Government states that Academies and Trust schools are two strands in the diverse range of options designed to deliver real improvements in school attainment. Each is designed to work in different circumstances. The first Academies programme has targeted those secondary schools with the lowest levels of attainment and in the most deprived communities. As such they represent a radical solution designed to provide a step change in education in failing schools.

Acquiring a Trust is a way for a range of schools (both primary and secondary) in different circumstances to raise standards, from those that are currently under-performing to those that are leading the way in the education sector as a whole. There are no specific criteria for which schools can become Trust schools: the decision is one for a governing body to make.

The level of involvement from business partners differs in Academies and Trust schools:

- Academy sponsors appoint the majority of governors to the governing bodies of their schools. In Trust schools, the Trust can appoint either the minority or majority of governors: the decision is made by the predecessor governing body. This enables continued input by the LA.
- In the past Academy sponsors have been expected to contribute £2 million. In the case of Trust schools, the Trust is not expected to make any financial contribution.

Attached as Appendix 2 is a summary of responsibilities across the existing range of school structures.

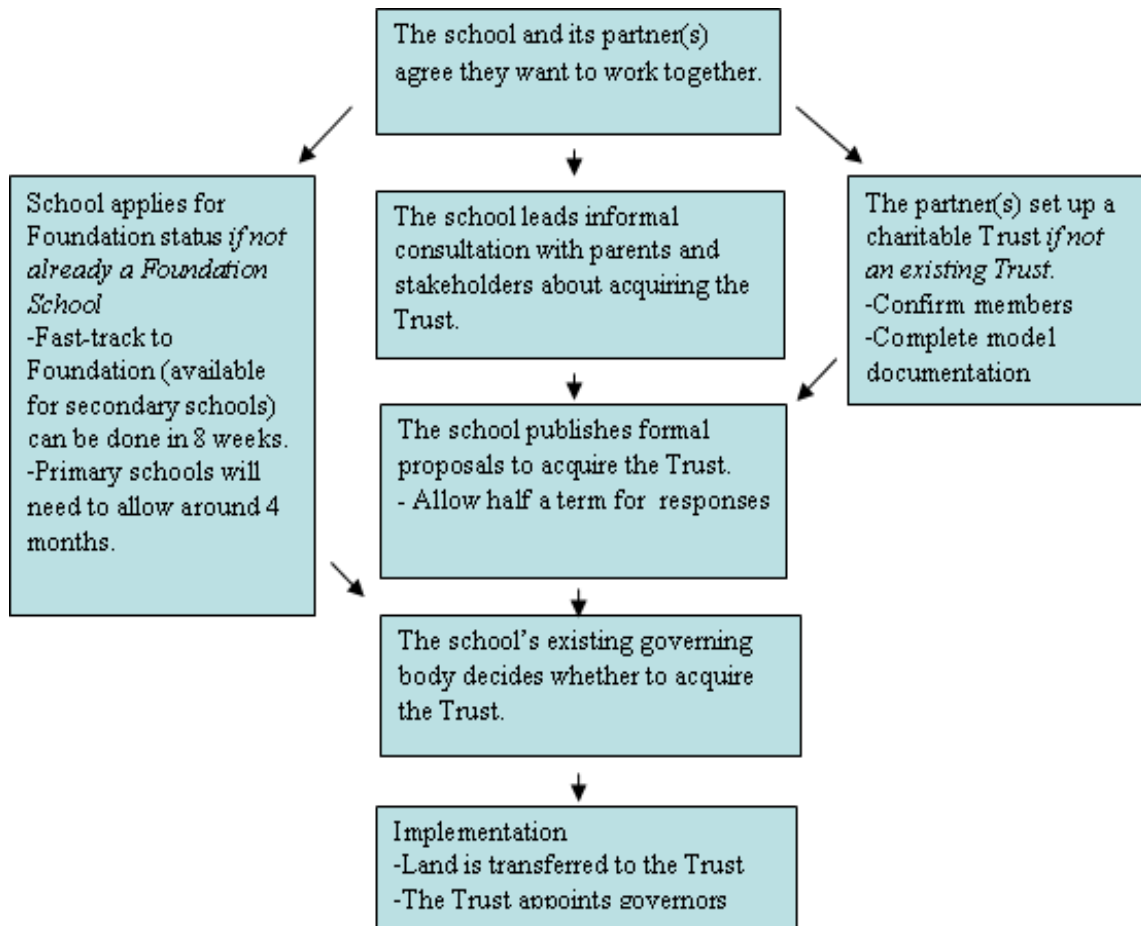
### **Trust school pathfinders**

The DfES has set up a small scale pathfinder programme (which includes Garforth Community College in Leeds) which they expect will help to demonstrate how the Trust school concept can be used to support schools in different ways according to their local circumstances, and to identify and resolve any issues around the practical implementation of the policy. Pathfinder schools will receive dedicated support from the DfES, including some small scale financial assistance with set up costs. Pathfinder schools are expected to test and simplify the process for acquiring a Trust by working closely with the DfES as they:

- Identify partners and agree how the Trust will be organised
- Work with partners to develop and agree a shared vision and aims
- Engage other stakeholders, including the local authority and parents
- Agree how the Trust will help the school(s) and whether it will appoint the minority or majority of governors
- Test and refine a practical “toolkit”.

Pathfinder schools are also expected to develop and help spread good practice.

### Flow Chart Process of Acquiring a Trust



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**Summary of Responsibilities and Opportunities Across Governance Models**

<b>COMMUNITY SCHOOLS</b>	<b>VOLUNTARY CONTROLLED SCHOOLS</b>	<b>VOLUNTARY AIDED SCHOOLS</b>	<b>FOUNDATION (TRUST) SCHOOLS</b>	<b>ACADEMIES</b>
<b>GOVERNANCE, ORGANISATION AND ADMISSIONS</b>				
LA maintained schools	LA maintained schools	LA maintained schools	LA maintained schools	Publicly funded independent schools
GB is corporate legal body without charitable status.	GB is corporate legal body with charitable status. This can help in the effective use of gifts and other support from the business community, parents and others.	GB is corporate legal body with charitable status. This can help in the effective use of gifts and other support from the business community, parents and others.	GB is corporate legal body with charitable status. This can help in the effective use of gifts and other support from the business community, parents and others.	GB is established as a charitable company. It cannot delegate its decision making power to a body upon which it does not have a majority.
GB constitution – stakeholders are parents, LEA, staff and community. Parents are the largest group.	GB constitution – stakeholders are parents, LEA, staff, community and foundation (normally church appointments). Parents are the largest group.	GB constitution – stakeholders are parents, LEA, staff, and foundation (normally church appointments). Foundation governors are in overall majority to preserve the religious character and ethos of the school.	GB constitution – stakeholders are parents, LEA, staff, and foundation. GB can decide that the majority of governors are appointed by the Trust. If so, a parents’ council must be formed.	Constitutions - Governing body [Directors]: principal sponsor, sponsor governors, principal [ex-officio member], parent, LA and co-opted governors plus other categories as stipulated in the Articles of. Trust [company]: principal sponsor, persons appointed by the sponsor and Chair of Governors

<b>COMMUNITY SCHOOLS</b>	<b>VOLUNTARY CONTROLLED SCHOOLS</b>	<b>VOLUNTARY AIDED SCHOOLS</b>	<b>FOUNDATION (TRUST) SCHOOLS</b>	<b>ACADEMIES</b>
<b>GOVERNANCE, ORGANISATION AND ADMISSIONS</b>				
GB can federate with other LA maintained schools but not with academies, independent schools or FE institutions	GB can federate with other LA maintained schools but not with academies, independent schools or FE institutions	GB can federate with other LA maintained schools but not with academies, independent schools or FE institutions	GB can federate with other LA maintained schools but not with academies, independent schools or FE institutions	Cannot federate at governance level with maintained schools, but may be part of a school company.
GB can collaborate with other LA maintained schools and FE institutions but not with academies or independent schools	GB can collaborate with other LA maintained schools and FE institutions but not with academies or independent schools	GB can collaborate with other LA maintained schools and FE institutions but not with academies or independent schools	GB can collaborate with other LA maintained schools and FE institutions but not with academies or independent schools	Cannot collaborate at governance level with maintained schools, but may be part of a school company.
LEA is the admissions authority.	LEA is the admissions authority.	GB is the admissions authority and sets its admissions arrangements. Like all other schools, they have to act in accordance with the Admissions Code.	GB is the admissions authority and sets its admissions arrangements. Like all other schools, they have to act in accordance with the Admissions Code.	GB is the admissions authority and sets its admissions arrangements. Like all other schools, they have to act in accordance with the Admissions Code.
<b>BUILDINGS AND SAFETY</b>				
LEA is usually responsible for buildings and capital works. LEA is responsible for health and safety.	LEA is usually responsible for buildings and capital works. LEA is responsible for health and safety.	GB is usually responsible for buildings, especially capital works. Usually has liability for 10% of capital costs. GB as employer is responsible for health and safety.	LEA is responsible for capital funding. GB is responsible for buildings, land and assets. GB as employer is responsible for health and safety.	GB is responsible for buildings, land and assets. GB as employer is responsible for health and safety.

<b>COMMUNITY SCHOOLS</b>	<b>VOLUNTARY CONTROLLED SCHOOLS</b>	<b>VOLUNTARY AIDED SCHOOLS</b>	<b>FOUNDATION (TRUST) SCHOOLS</b>	<b>ACADEMIES</b>
<b>FINANCE AND STAFFING</b>				
Funded through the LA Fair Funding Scheme	Funded through the LA Fair Funding Scheme	Funded through the LA Fair Funding Scheme	Funded through the LA Fair Funding Scheme	After initial sponsor input the majority of the funding for Academies comes from the DfES through the funding agreement. Some funding is from the Local Authority
LEA is the employer, although GB carries out many of the employer functions.	LEA is the employer, although GB carries out many of the employer functions.	GB is the employer and carries out all employer functions.	GB is the employer and carries out all employer functions.	GB is the employer and carries out all employer functions.

<b>OFSTED INSPECTIONS</b>				
Subject to a Section 5 inspection by OfSTED every three years.	Subject to a Section 5 inspection by OfSTED every three years. Must also arrange a Section 48 inspection of denominational education and collective worship.	Subject to a Section 5 inspection by OfSTED every three years. Must also arrange a Section 48 inspection of denominational education and collective worship.	Subject to a Section 5 inspection by OfSTED every three years.	Academies are inspected by Ofsted in the same way as maintained and independent schools and are inspected against both the maintained school framework and the Independent School Standards, as they apply to Academies